

SCHAFKOPF LAW, LLC
ATTORNEYS AT LAW

July 2, 2018

U.S. District Court, ED of PA
Office of the Clerk of Court
U.S. Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106

Re: Sean D. Williams v. City of Lancaster

To Whom It May Concern:

Enclosed please find one (1) original and one (1) copy of Plaintiff's Civil Action Complaint, along with a CD containing a pdf version of same and a check in the amount of \$400.00, in regards to the above captioned matter.

Kindly file the original Complaint and return a time-stamped copy to the undersigned along with the Civil Action Summonses.

Sincerely,



Gary Schafkopf, Esq.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Sean D. Williams

(b) County of Residence of First Listed Plaintiff Lancaster County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

See attachment.

DEFENDANTS

The City of Lancaster d/b/a POLICE DEPARTMENT; PHILIP BERNOT Individually, and in his official capacity as an Officer for the Lancaster Police Department

County of Residence of First Listed Defendant Lancaster County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Product Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 826 Appeal 28 USC 158 <input type="checkbox"/> 823 Withdrawal 28 USC 157 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 42 USC Sec. 1983 et seq.

Brief description of cause:

Violation of Civil Rights and Injuries

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/02/2019

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD



RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 4414 1/2 N. Queen Street, Lancaster, Pennsylvania 17603.

Address of Defendant: 39 W. Chestnut Street, Lancaster, Pennsylvania 17603

Place of Accident, Incident or Transaction: 1st Block of South Prince Street

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 07/02/2018

83362

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, GARY SCHAFKOPF, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 07/02/2018

Gary Schafkopf
Attorney-at-Law / Pro Se Plaintiff

83362

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Sean D. Williams	:	CIVIL ACTION
	:	
v.	:	
	:	
City of Lancaster et al	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>7/2/18</u>	<u>Gary Schafkopf, Esq</u>	<u>Plaintiff</u>
Date	Attorney-at-law	Attorney for
<u>610-664-5200</u>	<u>888-283-1334</u>	<u>gary@schaflaw.com</u>
Telephone	FAX Number	E-Mail Address

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WEISBERG LAW
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7 South Morton Ave. 19070
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1. Plaintiff, Sean D. Williams, brings this lawsuit against Defendant, the Lancaster Police

Department, to remedy violation of his civil rights and the use of excessive force on the part of the Lancaster Police Department. The Lancaster Police used excessive force by using a taser gun and tasing Plaintiff when Plaintiff had not committed any infraction or otherwise to legally justify the force used by Defendants in violation of federal law.

PARTIES

2. Plaintiff, Sean D. Williams, is an adult individual, residing at 4414 ½ N. Queen Street, Lancaster, Pennsylvania 17603. Plaintiff is African American.

3. Defendant, the City of Lancaster, doing business as the Lancaster Police Department (“LPD”) is located at 39 W. Chestnut Street, Lancaster, Pennsylvania 17603. Defendant is a municipality, duly organized and existing under the laws of the Commonwealth of Pennsylvania.

4. Officer Philip Bernot (“Bernot”) who, at all times material herein, was employed as an Officer for the LPD. Bernot is sued both individually and in his official capacity.

JURISDICTION AND VENUE

5. The above paragraphs are incorporated herein by reference.

6. Jurisdiction in this Honorable Court is based on federal question 28 U.S.C. §1331; supplemental jurisdiction over state law claims is granted by 28 U.S.C. §1367.

7. Venue is proper in the Eastern District of Pennsylvania, as the facts and transactions involved in the discrimination complained of herein occurred in large part in this judicial district at Lancaster County, Pennsylvania.

STATEMENT OF FACTS

8. The above paragraphs are incorporated herein by reference.

9. The LPD, in a number of unlawful and discriminatory acts used excessive force by using a taser gun on Plaintiff without any justification.

10. On June 28, 2018, Plaintiff was outside a friend's house around the 1st block of South Prince Street when the LPD arrived.

11. Upon information at some time police appeared on the scene.

12. Upon information and belief, the LPD officers on the scene were white.

13. The officers asked Plaintiff who is black to take a seat on the curb. Plaintiff was confused and surprised by this as he had not done anything wrong.

14. Not wanting to cause any trouble, Plaintiff complied without resistance. He sat on the curb with his back to the officers.

15. Officer Philip Bernot ("Bernot") who was holding a taser gun stated to Plaintiff "legs straight out or you're getting tased."

16. Plaintiff complied. Plaintiff was then asked to cross his legs which he did.

17. Even though Plaintiff cooperated, Bernot fired his taser into Plaintiff's back and Plaintiff fell backwards, writhing in pain. A video of this incident has been widely distributed throughout the public. This video is available at <http://mildenberglaw.com/lancasterpolicediscrimination>.

18. There was absolutely no reason for the use of the taser gun on Plaintiff.

19. Still in intense pain, Plaintiff was then handcuffed by officers while face down on his stomach.

20. Plaintiff was taken into police custody where he was held for several hours. Plaintiff was in extreme pain and was not offered any medical attention by the LPD or even a drink of water.

21. The treatment of Plaintiff by the LPD was shocking.

22. Plaintiff has suffered and continues to suffer severe head, neck, shoulder and head pain due to the actions of Bernot.

23. Plaintiff has also experienced crippling anxiety since he was tasered.

24. The actions of Officer Bernot and the Lancaster Police were shockingly violent and the use of excessive force was done without any justification.

25. Upon information and belief, Plaintiff was racially profiled based upon his African American race.

26. Upon information and belief from publicly available sources, there is a clear racial disparity in Lancaster and the LPD has a history and pattern of intentionally discriminating against African Americans and other minorities. For example, in Lancaster County:

- a. Lancaster County is approximately 16 percent African American.
- b. African Americans are arrested over four times the rate of white youth.
- c. Latino youth are arrested at twice the rate of white youth.

27. Upon information and belief from publicly available sources, Bernot and the Lancaster Police Department are under investigation due to the incident involving Plaintiff.

28. The actions of Defendants have caused Plaintiff to suffer substantial shame, embarrassment, mental and physical suffering.

29. The foregoing actions of defendants were negligent and/or reckless and/or intentional.

COUNT I.
EXCESSIVE FORCE/ASSAULT AND BATTERY

30. The above paragraphs are incorporated herein by reference.

31. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

32. At the time of Defendants' conduct, Plaintiff had not committed any infraction otherwise to legally justify the force used by Defendants.

33. Defendants' actions stated above, inter alia, were committed under color of state law and were violations of Plaintiff's clearly established and well settled Constitutional and other legal rights.

34. Defendants placed Plaintiff in fear of physical harm and contact and then physically harmed and contacted Plaintiff without justification. Plaintiff suffered excessive force by their wrongful conduct all in violation of the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, actionable through 42 U.S.C. §1983, et seq., and at Common Law.

COUNT II.
EIGHTH AMENDMENT VIOLATION-FAILURE TO PROVIDE MEDICAL CARE
AND TREATMENT

35. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

36. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

37. Defendants showed deliberate indifference to Plaintiff's serious medical needs and wanton infliction of pain.

38. Defendants' actions stated above, inter alia, were committed under color of state law and were violations of Plaintiff's clearly establish and well settled Constitutional and other legal rights.

39. Defendants caused Plaintiff to suffer cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT III.
42U.S.C. Sec. 1983
DISCRIMINATION BASED UPON RACE

40. The above paragraphs are incorporated herein by reference.

41. By committing the foregoing acts of discrimination against Plaintiff, Defendant has violated Plaintiff's clearly established and well settled Constitutional and other legal rights.

42. Said violations were done with malice and/or reckless indifference, and warrant the imposition of punitive damages.

43. The aforesaid conduct of Defendants' was intentional and undertaken in reckless disregard for the federally protected civil rights of Plaintiff.

44. As a result of the said violation of 42 U.S.C. § 1983, Plaintiff has suffered discrimination, humiliation, embarrassment, and other harms, and is entitled to entry of judgment in his favor, and against Defendants, together with an award of declaratory and injunctive relief, damages, and ancillary relief as provided by 42 U.S.C. § 1988.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendant individually, jointly and/or severally, in an amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars, together with interest, costs, punitive damages, attorney's fees and such other and further relief as this Honorable Court deems just, including equitable injunctive relief.

Respectfully Submitted,

BY: /s/ Brian R Mildenberg
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215-545-4870
Fax: 215-545-4871
Attorney for Plaintiff

DATED: July 2, 2018

BY: /s/ Matthew Weisberg
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Fax: 610-690-0880
Attorney for Plaintiff

DATED: July 2, 2018

BY: Gary Schafkopf
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DATED: July 2, 2018